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January 14, 2022

Hon. Ona T. Wang
United States District Court
Southern District of New York
500 Pearl Street
New York, N.Y. 10007-1312

Re: *Hachette Book Group, Inc. et al. v. Internet Archive et al.*,
1:20-CV-04160-JGK (S.D.N.Y)

Dear Judge Wang:

Pursuant to this Court's order at the December 2, 2021 conference (Dkt. 62), we write on behalf of all parties to provide the Court with a status report concerning the discovery disputes before the Court. At the December 2 conference, three letter motions were before the Court: Defendant's August 9, 2021 letter motion (Dkt. 47), Defendant's October 29, 2021 letter motion (Dkt. 54), and Plaintiffs' November 19, 2021 letter motion (Dkt. 58) (together, the "Letter Motions").

We are pleased to inform the Court that, subject to meaningful compliance with the agreements reached, which are memorialized in a separate document, the parties have resolved the various issues identified in the Letter Motions, together with related discovery disputes. More specifically, the parties have agreed that in lieu of additional depositions, certain witnesses will provide declarations addressing identified issues/questions, and have agreed that certain additional documents will be produced (if available). Further, the parties have agreed that particular non-party depositions (and related document discovery) will occur at mutually agreed times outside the close of fact discovery pursuant to the Scheduling Order.

Finally, the parties have mutually agreed on the attached proposed revisions to the current scheduling order dated September 8, 2021 (Dkt. 51), as amended by this Court at the December 2, 2021 conference (Dkt. 60). Because the Court extended the fact discovery deadline, it becomes necessary to also grant an extension of other case deadlines to ensure that the parties have sufficient time to complete expert discovery and summary judgment briefing.^[1] The parties

^[1] Pursuant to this Court's Individual Rule I.e., the parties state that they requested two amendments of the case deadlines in this action. These requests were both granted. *See* Dkt. 44, 51.

Hon. Ona T. Wang
January 14, 2022
Page 2

also have adjusted the schedule to address the anticipated nature of expert testimony and briefing. We attach as Exhibit A the current scheduling order. We attach as Exhibit B the proposed dates for the Second Revised Scheduling Order. All parties respectfully request that the Court so-order this new proposed schedule.

Thank you for your consideration of this request.

Respectfully submitted,

Davis Wright Tremaine LLP

/s/ Elizabeth A. McNamara

Elizabeth A. McNamara

cc: Counsel of Record (via ECF)